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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. _____

To require the Comptroller General to conduct a study of the business practices, procedures, accountability, and administration of the Internet Corporation for Assigned Names and Numbers and of the Internet domain name system, and for other purposes

IN THE HOUSE OF REPRESENTATIVES

Mr. BAIRD introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Comptroller General to conduct a study of the business practices, procedures, accountability, and administration of the Internet Corporation for Assigned Names and Numbers and of the Internet domain name system, and for other purposes

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair, Transparent, and
3 Competitive Internet Naming Act of 2003”.

4 **SEC. 2. GAO STUDY OF ICANN AND DOMAIN NAME SYSTEM.**

5 (a) IN GENERAL.—The Comptroller General of the
6 United States shall conduct a study regarding the business
7 practices, procedures, accountability, and administration
8 of the Internet Corporation for Assigned Names and
9 Numbers (in this Act referred to as “ICANN”), which
10 shall include an examination and analysis of the following
11 issues:

12 (1) Whether ICANN, in acting as the exclusive
13 operator of the Internet domain name system, has
14 operated in accordance with the terms of the Memo-
15 randum of Understanding Between the U.S. Depart-
16 ment of Commerce and Internet Corporation for As-
17 signed Names and Numbers, entered into in 1998.

18 (2) Whether the terms of the Memorandum of
19 Understanding, as in effect on June 19, 2003, pro-
20 vide for adequate and appropriate oversight by the
21 Federal Government of decisions made by ICANN
22 and agreements entered into by ICANN with other
23 non-government agencies.

24 (3) Whether, taking into consideration the
25 quasi-governmental status of ICANN, the interests
26 of the public, the Federal Government, and individ-



1 uals and entities most directly affected by decisions
2 of ICANN would be better served by a different
3 legal relationship between ICANN and the Govern-
4 ment, including—

5 (A) designation of ICANN as an advisory
6 committee, for purposes of the Federal Advisory
7 Committee Act (5 U.S.C. App.);

8 (B) applicability of a set of standardized
9 and specific procedures, similar to those appli-
10 cable to Federal agencies under the chapter 5
11 of title 5, United States Code (commonly known
12 as the Administrative Procedures Act), to the
13 decision making processes of ICANN; and

14 (C) treatment of ICANN as a Federal con-
15 tractor for purposes of the procedures and
16 guidelines under Federal laws relating to Fed-
17 eral contracts and procurement.

18 (4) Whether any decision by ICANN to approve
19 the request of a private entity to manage and oper-
20 ate a Wait Listing Service for expired Internet do-
21 main names is consistent with the purpose and prin-
22 ciples of the Memorandum of Understanding, wheth-
23 er any such decision would have the effect of award-
24 ing a monopoly to such private entity, and the ef-
25 fects any such decision would have on existing Inter-



1 net domain name registrars and on other users of
2 the Internet.

3 (5) Whether any such decision would be con-
4 sistent with the requirement under the Memo-
5 randum of Understanding for ICANN to abide by
6 the principle of competition.

7 (b) EXISTING REGISTRARS.—In conducting the study
8 under this section, the Comptroller General shall provide
9 existing Internet domain name registrars a fair oppor-
10 tunity to be heard on the issues studied, which shall in-
11 clude requesting such registrars to submit comments on
12 the issues studied, and shall consult with a group of rep-
13 resentatives of such registrars selected to fairly represent
14 the views of such registrars in analyzing the information
15 collected during the study.

16 (c) REPORT.—The Comptroller General shall submit
17 a report to the Congress regarding the study conducted
18 under this section, which shall include an analysis of, and
19 recommendations regarding, each issue studied and a de-
20 scription of the views of existing Internet registrars re-
21 garding each such issue and recommendation.

22 **SEC. 3. MORATORIUM.**

23 During the period beginning upon June 19, 2003,
24 and ending upon the expiration of the 30-day period that



1 begins upon submission to the Congress of the report re-
2 quired under section 2(c)—

3 (1) the Secretary of Commerce may not take
4 any action to alter the system and procedures for
5 registration of Internet domain names from such
6 system in effect on June 19, 2003, and any action
7 taken during such period before the date of the en-
8 actment of this Act may not be given any effect dur-
9 ing the remainder of such period, and

10 (2) any decision or determination to alter such
11 system, including by providing for any entity to im-
12 plement a Wait Listing Service of domain name reg-
13 istration, and any authority granted to alter such
14 system, shall not be effective during such period, re-
15 gardless of whether such decision or determination is
16 made before or after the date of the enactment of
17 this Act.

